

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

United States District Court  
Southern District of Texas  
ENTERED

APR 19 2001

Michael N. Milby, Clerk of Court

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

Plaintiff

VS.

BERRY CONTRACTING, L.P. d/b/a  
BAY, INC.

Defendant

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CIVIL ACTION NO. C-99-553

**CONSENT DECREE**

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission (“**EEOC**”), and Defendant, Berry Contracting, L.P. d/b/a Bay, Inc. (“**Bay**”). This Consent Decree resolves the allegations raised by the EEOC in the above-referenced Civil Action No. C-99-553. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct alleged unlawful employment practices on the basis of sexual harassment and to provide appropriate relief to Ilda Leal, who the EEOC maintains was adversely affected by these alleged practices, based on her sex, female. The EEOC alleges that Ilda Leal was subjected to unlawful discrimination when Bay employees subjected her to sexual harassment. Bay denies the allegations brought by the EEOC as alleged in the Complaint filed in this Civil Action.

The EEOC and Bay wish to settle this action, without the risks, uncertainties and expenses of continued litigation, under the terms in the Decree. Neither Bay's consent to the entry of this Decree, nor any of the terms set forth in it, shall constitute or be construed as Bay's admission of any Title VII violation.


IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the EEOC's filing of this action have been met. The parties stipulate to the Court's jurisdiction.
2. This Decree is entered in full and complete settlement of all claims contained in this lawsuit. EEOC expressly reserves its right to process and litigate any other charges (other than EEOC Charge No. 36B980011 filed by Ilda Leal against Bay) which may now be pending or may in the future be filed against Defendant Bay.
3. The duration of this Decree shall be one year from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Decree and may enter further orders or modifications as may be appropriate.
4. Defendant Bay will not engage in any employment practice which discriminates against a person based on their sex, including sexual harassment.

5. Within 180 days of the date of entry of this Decree, Bay will include in each of its paychecks a notice that shall: (a) explain that sexual harassment will not be tolerated; (b) instruct what conduct may constitute sexual harassment; and (c) explain the damaging effects of sexual harassment to victims, their families, their co-workers, and the workplace environment.
6. Defendant Bay agrees to post a notice, for at least the duration of this Decree, of its intent to comply with Title VII. This notice is set forth in Exhibit "A" which is attached to this Decree. Bay agrees to post a copy of Exhibit "A" in a conspicuous place at Bay facilities in Corpus Christi, Texas, within ten days after this Decree is filed.
7. Defendant Bay, in settlement of this dispute, shall pay Ilda Leal, the sum total of \$10,000.00 (TEN THOUSAND and 00/100 DOLLARS). Payment shall be mailed directly to, Ilda Leal at 4030 Green Grove, Corpus Christi, Texas, 78415, within 14 days of the Court entering this Decree. A copy of the settlement check and any accompanying transmittal documents shall be forwarded to the EEOC to the attention of Robert B. Harwin, Regional Attorney, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.
8. The terms of this Decree shall be binding upon the EEOC and Defendant Bay, its agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

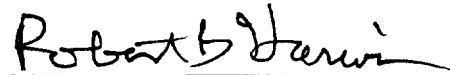
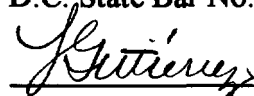
9. The parties to this Decree shall bear their own costs and attorney's fees incurred in this action. The parties agree that pursuant to Section 706(k) of Title VII, 42 U.S.C. §2000e-5(k), there is no "prevailing party" in this action or proceeding.

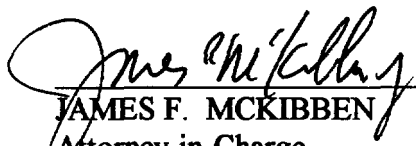
SO ORDERED AND ENTERED this 18 day of April, 2001.

  
HAYDEN W. HEAD, JR.  
UNITED STATES DISTRICT JUDGE

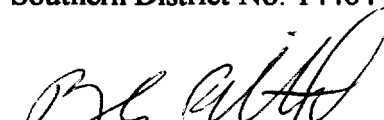
Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF**

**NOTICE TO ALL EMPLOYEES**

BERRY CONTRACTING, L.P. D/B/A BAY, INC. SUPPORTS FEDERAL LAW REQUIRING THERE BE NO DISCRIMINATION AGAINST ANY APPLICANT OR EMPLOYEE BECAUSE OF HIS OR HER RACE, COLOR, SEX, NATIONAL ORIGIN, RELIGION, AGE OR DISABILITY AND REAFFIRMS ITS COMMITMENT NOT TO DISCRIMINATE AGAINST ANY APPLICANT OR EMPLOYEE ON ANY TERM OR CONDITION OF EMPLOYMENT.

BERRY CONTRACTING WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE FOR OPPOSING EMPLOYMENT DISCRIMINATION OR FOR FILING OR PARTICIPATING IN A CHARGE OF EMPLOYMENT DISCRIMINATION.

IF YOU BELIEVE YOU ARE BEING DISCRIMINATED AGAINST IN ANY TERM OR CONDITION OF YOUR EMPLOYMENT BECAUSE OF YOUR RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, OR DISABILITY, OR THAT YOU ARE BEING SUBJECTED TO HARASSMENT BECAUSE OF YOUR SEX OR HAVING ENGAGED IN TITLE VII-PROTECTED ACTIVITY, YOU ARE ENCOURAGED TO SEEK ASSISTANCE FROM SUPERVISORY PERSONNEL, THE PERSONNEL DEPARTMENT, OR FROM THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 5410 FREDERICKSBURG ROAD, SUITE 200, SAN ANTONIO, TEXAS 78229-3550, (210) 281-7600 OR 1-800-669-4000.

NO RETALIATORY ACTION MAY BE TAKEN AGAINST YOU FOR SEEKING ASSISTANCE, FILING A CHARGE, OR COMMUNICATING WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

EEOC ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, WHICH PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN; THE AGE DISCRIMINATION IN EMPLOYMENT ACT; THE EQUAL PAY ACT; PROHIBITIONS AGAINST DISCRIMINATION AFFECTING INDIVIDUALS WITH DISABILITIES; SECTIONS OF THE CIVIL RIGHTS ACT OF 1991, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT, WHICH PROHIBITS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN THE PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.

**EXHIBIT "A"**